

MEMORANDUM OF LAW

DATE: July 1, 1987

TO: Councilmember Judy McCarty

FROM: City Attorney

SUBJECT: Various Questions Relative to Del Cerro Area

By memorandum dated June 15, 1987 you requested information on the following questions:

(1) Is it illegal to leave flyers on garage door handles in a residential neighborhood?

(2) Is it illegal to put flyers in mailboxes?

With respect to the first question, the San Diego Municipal Code does not prohibit the leaving of flyers on garage door handles in a residential neighborhood but does provide regulations on the distribution of certain printed matter.

Section 57.16 prohibits the depositing or distribution of any handbill, commercial advertising circular, booklet, pamphlet, notice or other written, printed or painted matter "on, in or upon any street or sidewalk, any motor vehicle parked or in motion upon any street in The City of San Diego, or on any other public place."

Subsection (b) of section 57.16 sets forth exceptions to the distribution regulation as follows:

This section shall not be deemed or construed to prohibit or restrict the distribution of written or printed matter devoted to the expression of views, opinions, beliefs or contentions relating to religious, political or sociological subjects, or to public or civic affairs, or to labor disputes or other controversies, or to community, state, regional, national or international affairs, or which treat of any social or

economic order, or which relate to the arts or sciences; or which are aimed to redress any grievance, or which otherwise are not distributed for the purpose of soliciting business, trade or custom;. . .

Also excepted are notices of events which are not arranged for profit or to stimulate business, trade or traffic.

With respect to the second question, it is illegal to place any mailable matter not bearing postage in or on private mail

receptacles. Paragraph 146.21 of the Domestic Mail Manual promulgated by the United States Postal Service provides as follows:

Whoever knowingly and willfully deposits any mailable matter such as statements of account, circulars, sale bills, or other like matter, on which no postage has been paid, in any letterbox established, approved, or accepted by the Postmaster General for the receipt or delivery of mail matter on any route with intent to avoid payment of lawful postage thereon, shall for each such offense be fined not more than \$300.

JOHN W. WITT, City Attorney

By

Joseph M. Battaglino

Deputy City Attorney

JMB:ls:263.20.21(x043.2)

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